IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4375 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT
and
Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NEW INDIA ASSURANCE CO LTD.

Versus

DHANJIBHAI MAGANBHAI PARMAR

Appearance:
MR SANDIP C SHAH for the appellant
MS PAURAMI B SHETH for Respondent No. 1
NOTICE SERVED for Respondent No. 2
NOTICE UNSERVED for Respondent No. 3

CORAM : MR.JUSTICE Y.B.BHATT
and
MR.JUSTICE M.H.KADRI

Date of decision: 16/01/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. This is an appeal under Section 173 of the Motor Vehicles Act, 1988 at the instance of the Insurance Company challenging the judgment and award dated April 24, 2001 passed by the Motor Accident Claims Tribunal

Surendranagar, in M.A.C. Petition No.347 of 1993. This Court had initially issued notice for settlement to respondent No.1 and, after hearing the concerned parties, the appeal was admitted by order dated December 10, 2001.

2. Learned counsel Ms. Paurami B. Sheth appears for respondent No.1-original claimant and waives service of notice in this appeal. Respondent No.2 is absent though served. Respondent No.3 is permitted to be deleted.

3. On a joint request of the learned counsel for the parties, this appeal is taken up for hearing today.

4. We have heard the learned counsel for the appellant and the learned counsel for respondent No.1-original claimant.

5. As aforestated, this is an appeal under Section 173 of the Motor Vehicles Act, 1988 at the instance of the Insurance Company. The learned counsel for the appellant has pressed this appeal only on the ground of interest awarded by the Tribunal on the amount of compensation determined as payable.

6. As a result of the hearing and discussion, the learned counsel for the respective parties agree that the earlier order passed by the earlier Bench [to which one of us was a party] dated October 17, 2001 in First Appeal No.4374 of 2001 may also be followed and the present appeal be decided accordingly.

7. In the light of this situation, we may only note that the Tribunal has awarded interest at the rate of 12% per annum on the compensation determined by it from the date of the claim petition till realization. It is this part of the award which is the subject matter of the present appeal.

8. In the light of the aforesaid decision, we hold and direct that the original claimant shall be entitled to interest on the amount of compensation awarded by the Tribunal under the impugned award at the rate of 12% per annum from the date of claim petition upto 31st December 1999 and at the rate of 9% thereafter till realisation.

9. The impugned judgment and award are consequently modified only to the aforesaid extent and the rest of the award stands confirmed.

10. This appeal is, therefore, partly allowed to the

aforesaid extent with no order as to costs. Decree be drawn accordingly.

11. The Tribunal shall be at liberty to disburse and deal with the amount deposited with it by the appellant-Insurance Company in accordance with the present decision.

Direct service is permitted.

January 16,2002 (Y.B. Bhatt, J.)

(M.H. Kadri, J.)

(swamy)